

# Board of Adjustment



## *Minutes*

City Council Chambers, Lower Level  
September 13, 2011

### **Board Members Present:**

Garrett McCray, Chair  
Nicholas Labadie, Vice-Chair  
Diane von Borstel  
Greg Hitchens  
Cameron Jones  
Tyler Stradling  
Danette Harris

### **Others Present:**

Jacob Brown  
Margaret Roush-Meier  
Steve Mullis  
Robert & Sheri Baldrige  
Neyza Ortega-Lopez  
Amy Zinnel  
Reese Anderson  
Others

### **Staff Present:**

Gordon Sheffield  
Mia Lozano-Helland  
Lesley Davis  
Wahid Alam  
Tom Ellsworth  
Angelica Guevara

The study session began at 4:36 p.m. The Public Hearing meeting began at 5:32 p.m. Before adjournment at 6:40 p.m., the following items were considered and recorded.

### **Study Session began at 4:36 p.m.**

- A. Zoning Code Update: Mr. Sheffield advised the Board that the update of the Mesa Zoning Ordinance became effective on September 3, 2011. He further informed the Board of some edits and changes to the newly adopted ordinance. A short discussion ensued.
- B. The items scheduled for the Board's Public Hearing were discussed.

### **Public Hearing 5:32 p.m.**

- A. Consider Minutes from the August 9th, 2011 Meeting A motion was made to approve the minutes by Board member Stradling and seconded by Boardmember Jones. Vote: Passed 7-0
- B. Consent Agenda a motion to approve the consent agenda as read was made by Board member Jones and seconded by Board member von Borstel. Vote: Passed 6-0-1 (Stradling abstained)

**Board of Adjustment Meeting  
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**Case No.:** BA11-040

**Location:** 1061 North Dobson Road

**Subject:** Requesting a modification of a Special Use Permit (SUP) for a comprehensive sign plan in the C-2 BIZ PAD zoning district. (PLN2011-00134)

**Decision:** Continued to the October meeting

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Board member Jones, seconded by Board member von Borstel to continue case BA11-040 to the October meeting.

**Vote:** Passed 6-0-1 (Stradling abstained)

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## Board of Adjustment Meeting September 13, 2011

**Case No.:** BA11-041

**Location:** 758 East Brown Road

**Subject:** Requesting the renewal of a Special Use Permit (SUP) to allow the development of a retail store and automobile service station in the C-2 zoning district. (PLN2011-00199)

**Decision:** Approved with conditions

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Board member Jones, seconded by Board member von Borstel to approve case BA11-041 with the following conditions:

1. *Compliance with the site plan, landscape and sign plans submitted except as modified by the conditions below.*
2. *Replacement of all dead and dying landscape materials.*
3. *Retention Basins shall be designed per 11-15-3(D)1-9.*
4. *Provide plant materials per 11-15-3(A) and 11-15-4(B).*
5. *Any detached sign along Brown Road shall not exceed twelve-feet (12') in height and eighty square feet (80 square feet) in area.*
6. *Any detached sign along Horne shall not exceed eight-feet (8') in height and fifty square feet (50 sq. ft.) in sign area.*
7. *All signs. Attached and detached, shall require review and approval by Planning Division staff prior to the issuance of building permits.*
8. *"Pump topper" signs greater than three square feet, and all exterior mounted point-of-sale signs shall not be permitted within the development. Pump topper signs shall not be illuminated.*
9. *All conditions related to signs (Condition # 5 through 8, inclusive) may be modified only through the review and approval of a Special Use Permit for a Comprehensive Sign Plan.*
10. *Compliance with all conditions of the Design Review Board*
11. *Compliance with all requirements of the Development and Sustainability Department in the issuance of building permits.*

**Vote:** Passed 6-0-1 (Stradling abstained)

### **Findings:**

- 1.1** The site located at the NWC Brown and Horne is currently vacant. A fire in 2007 destroyed the previous building, a 2,585 sq. ft. 7-Eleven store and auto service station built in 1994. Since that time the site is has not been redeveloped.
- 1.2** The site is part of an existing operating shopping center with a free standing carwash and inline building with retail stores.
- 1.3** The Board of Adjustment previously approved, with conditions, case BA09-019 on September 8, 2009. The Special Use Permit expired after one year and the building permit had not been issued during that time. Therefore, the applicant applied for a new Special Use Permit (SUP) for the approved gas station and convenience store.

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- 1.4** The site is approximately 28,896 square feet or 0.66 acres. The convenience store is 3,600 square feet with five (5) fuel stations. Recently constructed, similar sized convenience stores with fueling stations located on corners, occupy much larger site areas.
- 1.5** The intersection of Brown and Horne has a very strong pedestrian orientation, primarily from families walking to and from the two school campuses to the south (Keno Jr. High and Edison Elementary). In addition, there are numerous apartments and a day care facility located at this intersection.
- 1.6** The approved site plan provides a twelve (12) foot wide foundation base along the front of the convenience store. This is three (3) feet less than required by code. Also, the foundation base along the rear elevation is three (3) feet wide where five (5) feet is required.
- 1.7** The approval includes limits on the use of signs for this project. Because this case involved an approved Development Incentive Permit, conditions were placed on the signage amounts. This was done to increase the compatibility of the project with the surrounding land uses. The high pedestrian use at this intersection and the fact that Horne is a lower traffic volume collector street, reduced the need for a twelve (12) foot detached sign.

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## **Board of Adjustment Meeting September 13, 2011**

**Case No.:** BA11-042

**Location:** 324 South Horne

**Subject:** Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion and remodel of an existing multi-family development in the R-4 zoning district. (PLN2011-00192)

**Decision:** Approved with conditions

**Summary:** Paul Massey, project architect, represented the case and provided the board with a summary of the project and details.

Jacob Brown, 712 East 3<sup>rd</sup> Ave: Mr. Brown spoke in opposition stating that he did not like the project and felt that it would be harmful to the neighborhood. He voiced concerns with the additional units that would create increases in current problems related to trash and traffic, both vehicular and pedestrian.

Mr. Massey responded that there would only be 6 additional units added and explained that a recent change in management would remedy the trash and maintenance problems. He also stated that a currently locked gate at the northwest corner is a required Mesa Fire Department gate. Board member Hitchens asked where the entrances to the site were. Mr. Massey responded that the two entrances are on Horne.

Staff member Guevara provided the staff report and asked Mr. Massey for clarification of a driveway entrance at the northwest corner of the site. She stated that the submitted documents did not show a gated entrance there. Mr. Massey responded that there was a drafting error and that there would be a locked gate at that location. Ms. Guevara commented that if required for fire access, she would need to have the Fire Department review the gated entrance.

Board member Jones asked if there was a pedestrian exist to 3<sup>rd</sup> Ave. Ms. Guevara stated that staff had recommended a pedestrian connection to the right of way. He further inquired what landscape materials would be used in the central parts of the site. Mr. Massey explained that there would be minimal turf and mostly xeriscape type landscaping. He commented that a block wall could be added if required. Ms. Guevara stated that walling in the site is not recommended as pedestrian pathways will be created regardless.

Board member Stradling asked about density calculations and if the site was in compliance with these. Mr. Sheffield provided the details of how the density of a property is calculated, gross size of property after right of way has been taken.

Vice-Chair Labadie inquired about the number of new units versus the number of existing units that are to be remodeled. Ms. Guevara explained that several of the two-bedroom units will be remodeled to create four-bedroom units. He also commented that he feels there might be opposition to a pedestrian exit on 3<sup>rd</sup> Ave. He further asked about any Code Compliance issues at the site. Ms. Guevara responded that there had been previous complaints, but no recent open complaints.

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Board member Harris commented that she had visited the site and noticed large amounts of trash and debris on the site. Ms. Guevara explained that the Code Compliance could

Chair McCray commented on the proposed improvements and the concerns of the surrounding neighbors. Mr. Sheffield proposed the creation of a good neighbor policy by the management company to address any issues. Chair McCray responded that he was in favor of a good neighbor policy and asked to hear from the new management representative.

Tina Beland, broker for the management company, 12018 W. Corrine Dr. in El Mirage, AZ stated that there will be more amenities, more staffing, camera monitoring of the grounds, increased trash pick-up, a recycling program, an on-site grounds keeper and resident involvement. The new management team is proposing a very proactive approach with management personnel on site for at least six-days a week. Board member Labadie asked her if there were any code compliance problems since she has been there. She stated that she was not aware of any. She was agreeable to a good neighbor policy.

An example of a previous policy was read by Ms. Guevara to give the Board an idea of the content of a good neighbor policy. Chair McCray asked about the specifics of the enforcement of the policy. Mr. Sheffield provided some details and suggestions.

Board member Labadie made comments and had concerns related to the policy and the Code Compliance process. Ms. Guevara provided suggestions and solutions to his concerns.

**Motion:** It was moved by Board member Labadie, seconded by Board member von Borstel to approve case BA11-042 with the following conditions:

1. *Compliance with the site plan and elevations submitted, except as modified by the conditions below.*
2. *A landscape plan prepared by a registered landscape architect shall be submitted and approved by Planning Division staff showing compliance with the landscape quantities identified in the table in this report prior to submittal of construction drawings for building permit review.*
3. *Provide a pedestrian connection to the public sidewalk on 3<sup>rd</sup> Avenue and a pedestrian gate to 3<sup>rd</sup> Avenue.*
4. *Provide a pedestrian connection through the drive aisle to connect the sidewalks on both sides of the new drive aisle.*
5. *Repaint, repair and/or replace fencing adjacent to the south and west property lines.*
6. *Compliance with all requirements of the Development and Sustainability Department with regard to the issuance of building permits.*
7. *Provide a vehicular access gate for emergency Fire Department use at the northwest corner of the site on 3<sup>rd</sup> Ave.*
8. *The creation of a Good Neighbor Policy to be reviewed by staff prior to the issuance of a building permit.*

**Vote:** Passed 7-0

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### **Findings:**

- 1.1** The applicant requested a Substantial Conformance Improvement Permit (SCIP) to allow the expansion and remodel of an existing 146 unit multi-family development that was originally constructed in the early 70's. The plan included the removal of eight 2-bedroom units and the addition of thirty-five 4-bedroom units, interior and exterior remodel of the existing buildings, addition of a drive aisle and parking in the middle of the site, replacement of existing paving and trash enclosures, mailboxes, provision of new landscape throughout the site, and new amenities consisting of a new pool, play area, and three ramadas.
- 1.2** The existing development is in a blighted condition. The applicant will demolish eight existing units in order to construct five buildings in the existing courtyards. The new buildings are architecturally designed and the exterior of the existing buildings will be remodeled to match the new buildings. A minimum of a twenty-foot separation will be provided between buildings. A new drive-aisle and parking is being provided in the middle of the development. The existing pavement will be removed and replaced
- 1.3** At this time, the applicant has not provided a landscape plan but intends to provide new landscape material to supplement existing landscape throughout the site. The required landscape material quantities and the staff supported quantity deviations based on available yard width were identified in the staff report.
- 1.4** The areas where the site did not comply with current requirement were due to the original site layout. The improvements represent an improvement over the existing conditions, and significantly upgrade the appearance of the overall development that provides a needed facelift. All existing and visible ground-mounted air condition units will be relocated to the roof. This project will also include a re-designed pool, ramadas, laundry room, and office where family services such as computers and training will be provided. Additional parking is provided and drought tolerant landscape material will be installed throughout the site with an automatic underground watering system. A detailed landscape plan will be provided for staff review and approval.
- 1.5** Additional improvements to the site include the provision of pedestrian sidewalks leading from the site to the public streets. Two sidewalks will be extended to Horne and a third sidewalk connecting the west end of the project to 3<sup>rd</sup> Avenue is suggested by staff. The existing wrought iron fence adjacent to 3<sup>rd</sup> Avenue restricts access and requires residents to walk to the east or west end of the development. Staff requested the provision of a pedestrian gate to 3<sup>rd</sup> Avenue.
- 1.6** The site plan also provides many new pedestrian sidewalks throughout the interior of the project. These new sidewalks will allow pedestrians to walk from their unit, through the site, and to the amenities and office. Staff suggested the provision of two additional sidewalks crossing the new drive aisle to connect both sides of the project.
- 1.7** The fencing adjacent to the south and west property lines is in disrepair and will be repainted, repaired and/or replaced.
- 1.8** The site improvements represent a large investment by the property owner and would not have been financially feasible if the site was required to comply with current development requirements. The SCIP will allow overall and significant improvements to the site. The project will

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result in significant improvements to the buildings and landscape architecture and will be compatible with and not detrimental to the surrounding neighborhood.

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## **Board of Adjustment Meeting September 13, 2011**

**Case No.:** BA11-043

**Location:** 2565 East Southern Ave

**Subject:** Requesting a modification to the Planned Area Development (PAD) to allow the modification of rear yards in the R-2 PAD zoning district. (PLN2011-00224)

**Decision:** Continued to the October meeting.

**Summary:** Chair McCray explained that this case would be continued to the October meeting, but because several members from the community were in attendance to be heard regarding their position on the project, they would be allowed to voice their opinions.

Reese Anderson represented the applicant and explained the request.

Neyza Ortega-Lopez, 2565 East Southern Ave #41, stated that the developer has made changes without notifying the property owners. She further stated that their issues are not being addressed. Board member Harris asked Ms. Ortega-Lopez if she had an issue with the proposed setbacks, Ms. Ortega-Lopez responded that she did not.

Margaret Raush-Meier, 2565 East Southern Ave #48, told the Board that the property owners have concerns with the developer failing to notify them of any of the changes that have been made including the re-plat of the subdivision. She further commented that she was not for or against the setbacks only the lack of communication by the developer. Board member Hitchens asked about the process for amending a plat. Staff member Ellsworth replied that a City Council hearing and action is required; however state statutes do not require public notification or citizen participation for a re-plat. Mr. Ellsworth further explained that the applicant had requested a continuance to perform neighborhood outreach with the property owners. Mr. Hitchens recommended that the applicant meet with the neighbors.

Vice-chair Labadie inquired about the scope of the re-plat and Boardmember Hitchens mentioned that everything that had been heard was not related to the case. He further stated that he hoped that all the issues would be resolved by the next meeting.

Ms. Raush-Meir responded that the property owners could not state whether they were in favor or opposed to the case because they had not been informed of the details involved.

Chair McCray explained he has made a policy of allowing everyone in attendance the opportunity to exercise their right to speak, but that the Board would not be taking any action on the requested setbacks at this meeting. He also announced that the October meeting date had yet to be determined.

Amy Zinnel, 2565 East Southern Ave #38, stated that she would hold her comments for the next meeting but, that she agreed with Ms. Raush-Meir comments.

A motion was made by Board member Stradling.

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**Motion:** It was moved by Board member Stradling, seconded by Board member Labadie to continue case BA11-043 to the October meeting.

**Vote:** Passed 7-0

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C. Other Business:

None

Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

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